

Application No.: 10/606,100
Amendment Dated: July 9, 2007
Office Action dated February 27, 2006
Attorney Docket No.: 2233.001

Remarks/Arguments

Claims 1, 4, 5, 8, 13, 15, 16, 19, and 28-38 are in the application. Claims 1 and 28 are in independent form. Claims 2, 3, 6, 7, 9-12, 14, 17, 18, and 20-27 are cancelled by this amendment.

Claim Rejections – 35 U.S.C. § 112

Claims 15 and 16 are being rejected under 35 U.S.C. § 112, second paragraph for indefiniteness. Amended claim 15 and 16 clarify that the wagering data D_w in the second lottery phase is the same wagering data as that of the first lottery phase

Claim Rejections – 35 U.S.C. § 103

Claims 1, 4-5, 8, 13, 15-16, 19, and 28-29, 31-38 are being rejected under 35 U.S.C. § 103(a) as being unpatentable over Hannan et al., U.S. Publication No. 2004/0029627 ("Hannan").

The winners in a lottery of the present invention are determined entirely at random. Every player has the same odds of winning. The system of Hannan, while called a lottery, is really a skills-based gambling system, as described in the applicants' response. While a player in Hannan can use a "quick pick" option, and that player's chances of winning are then not based on skill, the lottery system itself is still skills-based, which requires significantly affects the payout and the motivation for players to participate. Even the player who chooses "quick pick" will have his payout determined by the skill of the other players.

In the skills based lottery of Hannan, the odds of the six favorites finishing in the first six positions are obviously greater than the odds of six long shots finishing in the first six positions. In a lottery, where the odds of every number coming up is even, every combination is equally likely. Thus, the difference between a skills-based gambling system that provides users an option of a "quick pick" and a random lottery in which all users have an equal chance of winning is significant.

Claim 1 is amended to state "determining winning lottery data D_L based on the correlating step such that there is an equal probability of any of the random numbers being

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included in D_L." In Hannan, the numbers assigned to the favorites are more likely to be included in the list of winning numbers.

Amended claim 1 also clarifies that it is a method of administering lottery wagering. Similarly claim 28 is a method of "operating a lottery wagering system." That is, the claims are directed to more than the action of any single player, who might chose quick pick to get a random result; the lottery is administered or operated such that all players achieve a random result.

With regard to claim 28, Hannan does not teach "randomly associating with participants in a competition the numbers in the set of available lottery numbers after accepting the wager." By assigning the random numbers after accepting the wager, there is no possibility that the skill of the player affects the probability of winning. This step is directly contrary to Hannan, which teaches: "[0008] There is also a need for a skill-based lottery to increase interest in lottery type gaming by permitting players to have an increased chance of success;" and "[0009] It is a further object of the present invention to provide a novel lottery game in which the winning combination is not the result of a random number generator, but is instead based on the outcome of sporting events." [Emphasis added]

Applicants submit that modifying Hannan so that the results are random and skill has no part would render Hannan unsatisfactory for its intended purpose, and is therefore an impermissible modification. MPEP 2143.01V.

Applicants submit that claim 30 is patentable for reasons described above with respect to claim 28.

Applicants submit that the claims are not obvious or anticipated by the reference and respectfully request reconsideration and allowance

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Very truly yours,

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